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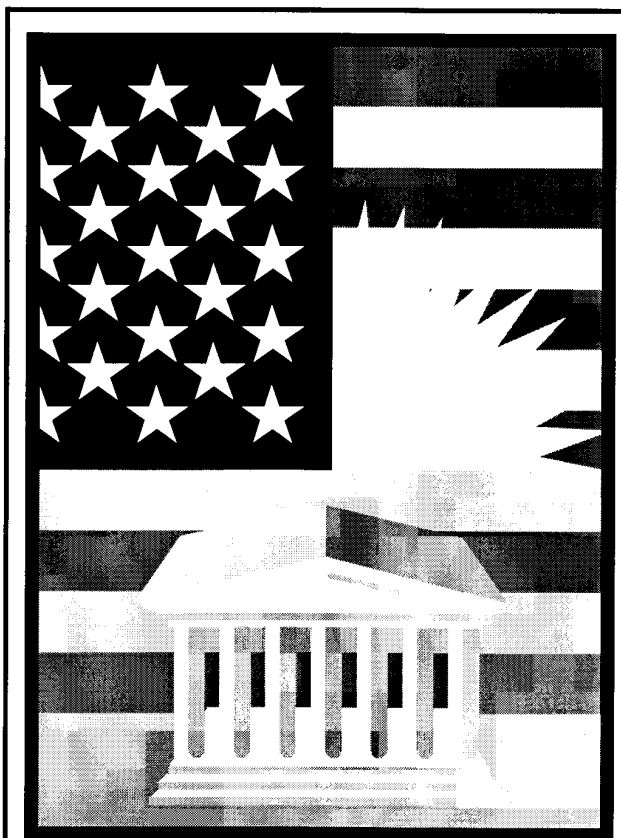
## Publication 535

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# Business Expenses

For use in preparing

**1999** Returns



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## Contents

Important Changes for 1999 .....	1
Important Changes for 2000 .....	2
1. Deducting Business Expenses ..	2
2. Employees' Pay .....	5
3. Meals and Lodging Furnished to Employees .....	8
4. Fringe Benefits .....	9
5. Employee Benefit Programs .....	17
6. Retirement Plans .....	20
7. Rent Expense .....	24
8. Interest .....	26
9. Taxes .....	32
10. Insurance .....	33
11. Costs You Can Deduct or Capitalize .....	36
12. Amortization .....	40
13. Depletion .....	47
14. Business Bad Debts .....	51
15. Electric and Clean-Fuel Vehicles .....	53
16. Other Expenses .....	57
17. How To Get More Information ...	63
Index .....	65

## Introduction

This publication discusses common business expenses and explains what is and is not deductible. The general rules for deducting business expenses are discussed in the opening chapter. The chapters that follow cover specific expenses and list other publications and forms you may need.

## Important Changes for 1999

The following items highlight some changes in the tax law for 1999.

**Standard mileage rate.** The standard mileage rate for the cost of operating your car, van, pickup, or panel truck in 1999 is 32½ cents a mile for all business miles driven before April 1. The rate is 31 cents a mile for business miles driven after March 31. See chapter 5.

**Health insurance deduction for the self-employed.** For 1999, this deduction increases to 60% of the amount you paid for health insurance for yourself and your family. After 2001, the deduction will increase again. See chapter 10.

**Business use of your home.** You may be able to deduct expenses for your home office even if it is not where you perform your most

## Qualified Employee Discount

Do not include in an employee's wages the value of a qualified employee discount. A qualified employee discount is a price reduction you give an employee on certain property or services you offer to customers in the ordinary course of the line of business in which the employee performs substantial services. For the rules on line of business, see *No-Additional-Cost Service*, earlier. If the employee is highly compensated, see *Non-discrimination rules*, earlier.

However, a discount on real property (such as a building or land) or on personal property of a kind commonly held for investment (such as stocks or bonds) is not a qualified employee discount. The exclusion does not apply where there is a reciprocal agreement under which another employer provides the discount. A qualified employee discount also does not include any discount to the extent it is more than the following amount.

- 1) For a discount on property, your **gross profit percentage** times the price you charge customers for the property.
- 2) For a discount on services, 20% of the price you charge customers for the service.

Determine your **gross profit percentage** based on all property you offer to customers (including employee customers) in the ordinary course of your line of business and your experience during the tax year immediately before the tax year in which the discount is available. To figure your gross profit percentage, subtract the total cost of the property from the total sales price of the property and divide the result by the total sales price of the property.

The term "employee" includes the same individuals listed earlier under *No-Additional-Cost Service*. For special rules concerning employees of a leased section of a department store, see section 1.132-3(d) of the regulations.

## Qualified Moving Expense Reimbursements

You can exclude from an employee's wages any qualified moving expense reimbursement. This is any amount you give the employee, directly or indirectly (including services furnished in kind), as a payment for, or a reimbursement of, expenses that would be deductible as moving expenses if your employee paid or incurred them. You should make the reimbursements under rules similar to those described in chapter 16 for reimbursements of expenses for travel, meals, and entertainment under accountable plans.

**Deductible moving expenses.** Deductible moving expenses include only the reasonable expenses of:

- 1) Moving household goods and personal effects from the former home to the new home, and
- 2) Traveling (including lodging) from the former home to the new home.



*Deductible moving expenses do not include any expenses for meals.*

For more information on deductible moving expenses, see Publication 521, *Moving Expenses*.

**Nonqualified reimbursements.** Include any reimbursements for moving expenses that are not qualified moving expense reimbursements in the employee's wages. This includes any payment for, or reimbursement of, expenses the employee deducted in a prior year.

**Where to report reimbursements.** Report any qualified moving expense reimbursements you paid directly to an employee in 1999 in box 13 of the employee's 1999 Form W-2. Use code "P" to identify the reimbursements. Do not report any qualified moving expense reimbursements you paid to a third party on behalf of the employee or services that you furnished in kind to an employee.

Include any nonqualified moving expense reimbursements with your employee's wages in box 1.

## Qualified Transportation Fringe

You can exclude qualified transportation fringe benefits from the wages of employees, up to certain limits. The following benefits, which you can provide in any combination at the same time to an employee, are qualified transportation fringe benefits.

- 1) A ride in a commuter highway vehicle between the employee's home and work place.
- 2) A transit pass.
- 3) Qualified parking.

Amounts you give to an employee for these expenses under a bona fide reimbursement arrangement are also excludable. Cash reimbursements for transit passes qualify only if a voucher or a similar item that the employee can exchange only for a transit pass is not readily available for direct distribution by you to your employee.

**Benefit provided in place of pay.** You can exclude qualified transportation fringe benefits from an employee's wages even if you provide them in place of pay.

**Employee.** You can provide qualified transportation fringe benefits only to employees. The definition of employee includes common-law employees and other statutory employees, such as officers of corporations. Self-employed individuals, including partners, 2-percent shareholders in S corporations, sole proprietors, and other independent contractors are not employees for purposes of this fringe benefit.

**Relation to other fringe benefits.** You cannot exclude a qualified transportation fringe benefit under the de minimis or working condition fringe benefit rules. However, if you provide a local transportation benefit other than by transit pass or commuter highway vehicle, or to a person other than an em-

ployee as defined earlier, you may be able to exclude all or part of the benefit under other fringe benefit rules (de minimis, working condition, etc.).

**Commuter highway vehicle.** A commuter highway vehicle is any highway vehicle that seats at least 6 adults (not including the driver). In addition, you must reasonably expect that at least 80% of the vehicle mileage will be for transporting employees between their homes and work place, with your employees occupying at least one-half of the vehicle's seats (not including the driver's).

**Transit pass.** A transit pass is any pass, token, farecard, voucher, or similar item entitling a person, free of charge or at a reduced rate, to ride:

- Mass transit, or
- In a vehicle that seats at least 6 adults (not including the driver) if a person in the business of transporting persons for pay or hire operates it.

Mass transit may be publicly or privately operated and includes bus, rail, or ferry.

**Qualified parking.** Qualified parking is parking you provide to your employees on or near your business premises. It also includes parking on or near the location from which your employees commute to work using mass transit, commuter highway vehicles, or carpools. It does not include parking at or near your employee's home.

## Exclusion Limits

For 2000, you may exclude from the wages of each employee up to:

- 1) \$65 per month for combined commuter highway vehicle transportation and transit passes, and
- 2) \$175 per month for qualified parking.

**Excess benefits taxable.** If, for any month, the fair market value of a benefit is more than its limit, include in the employee's wages only the amount over the limit, minus any amount paid for the benefit by the employee.

**Example 1.** Each month, you provide a transit pass valued at \$70 to your employee, Tom Travis. He does not pay you for any part of the pass. Because the value of the transit pass exceeds the limit, for each month you provide this pass you must include \$5 in his wages for income and employment tax purposes.

**Example 2.** Each month, you provide qualified parking valued at \$180 to Travis Ramon. He does not pay you for any part of the parking. Because the value of the parking exceeds the limit, for each month you provide this parking you must include \$5 in his wages for income and employment tax purposes.

**Example 3.** You provide qualified parking with a fair market value of \$200 per month to your employees, but you charge the employees \$25 per month. The value of the parking exceeds the limit by \$25. You reduce that excess benefit by the amount your employees paid (\$25). Do not include any amount in your employees' wages.

## More Information

For more information on qualified transportation fringe benefits, including van pools, and how to determine the value of parking, see Notice 94-3 in Cumulative Bulletin 1994-1.

## Working Condition Fringe

You can exclude from an employee's wages (as a working condition fringe benefit) the value of property and services you provide if the employee could deduct them as a trade or business or depreciation expense if he or she paid for them.

For this fringe benefit, **employee** includes any of the following persons.

- 1) An individual currently employed by you.
- 2) A partner who performs services for a partnership.
- 3) A director of your company.
- 4) An independent contractor who performs services for you.

However, do not exclude from the compensation you pay to an independent contractor who performs services for you the value of parking or the use of consumer goods that you provide in a product testing program. Also, do not exclude from the compensation you pay to a director the value of the use of consumer goods you provide in a product testing program.

**Vehicle-allocation rules.** Generally, for an employer-provided vehicle, the amount you can exclude as a working condition fringe is the amount that would be allowable as a deductible business expense if paid by the employee. That is, if the employee uses the car for business, as well as for personal use, the value of the working condition fringe is the portion determined to be for business use of the vehicle. See *Business use of your car* under *Personal Expenses* in chapter 1. Also, see the special rules for certain demonstrator cars and qualified nonpersonal-use vehicles, discussed later.

However, instead of excluding the value of the working condition fringe related to the deductible car expense, you may include the entire annual lease value in an employee recipient's wages. The employee can then claim any deductible business car expense as an itemized deduction on his or her personal income tax return. This option is available only if you use the automobile lease rule (discussed under *Special Valuation Rules*, earlier) to value the fringe benefit.

**Educational assistance.** If you pay the cost of an employee's education, you may be able to exclude the cost from the employee's wages under the tax rules that apply to employer-provided educational assistance programs. Costs you cannot exclude under those rules may be excluded only if they qualify as a working condition fringe. To qualify as a working condition fringe, the cost of the education must be a job-related expense that would be deductible by the employee if he or she paid it. For more information on educational assistance programs, see chapter 5. For more information on deductible education expenses, see Publication 508, *Tax Benefits for Work-Related Education*.

**Outplacement services.** You can exclude from an employee's wages, as a working condition fringe, the value of outplacement services provided to the employee on the basis of need if you get a substantial business benefit from the services distinct from the benefit you would get from the payment of additional wages. Substantial business benefits include promoting a positive business image, maintaining employee morale, and avoiding wrongful termination suits.

You cannot exclude the value of services that do not qualify as a working condition fringe because the employee can choose to receive cash or taxable benefits in place of the services. If you maintain a severance plan and permit employees to get outplacement services with reduced severance pay, include in the employee's wages the difference between the unreduced severance and the reduced severance payments.

**Demonstrator cars.** All of the use of a demonstrator car by your full-time auto salesperson generally qualifies as a working condition fringe if the use is primarily to facilitate the services the salesperson provided for you and there are substantial restrictions on personal use. For more information and the definition of "full-time auto salesperson," see section 1.132-5(o) of the regulations.

## Qualified Nonpersonal-Use Vehicles

All of an employee's use of a qualified nonpersonal-use vehicle qualifies as a working condition fringe. You can exclude the value of that use from the employee's wages. A qualified nonpersonal-use vehicle is any vehicle the employee is not likely to use more than minimally for personal purposes because of its design. Qualified nonpersonal-use vehicles include all of the following vehicles.

- 1) Clearly marked police and fire vehicles.
- 2) Unmarked vehicles used by law enforcement officers if the use is officially authorized.
- 3) An ambulance or hearse used for its specific purpose.
- 4) Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
- 5) Delivery trucks with seating for the driver only, or the driver plus a folding jump seat.
- 6) A passenger bus with a capacity of at least 20 passengers used for its specific purpose.
- 7) School buses.
- 8) Tractors and other special purpose farm vehicles.

**Clearly marked police or fire vehicles.** A police or fire vehicle is a vehicle, owned or leased by a governmental unit (or any of its agencies or instrumentalities), that a police officer or fire fighter who is always on call must use for commuting. The governmental unit must prohibit any personal use (other than commuting) of the vehicle outside the limit of the police officer's arrest powers or the fire fighter's obligation to respond to an emergency. A police or fire vehicle is clearly marked if, through a painted symbol or words, it is easy to see the vehicle is a police or fire

vehicle. A marking on a license plate is not a clear marking for this purpose.

**Unmarked law enforcement vehicles.** The governmental agency or department that owns or leases the vehicle and employs the officer must authorize any personal use of an unmarked law enforcement vehicle. The personal use must be necessary to help enforce the law, such as being able to report directly from home to a stakeout site or to an emergency. Use for vacation or recreation trips cannot qualify as an authorized use.

**Law enforcement officer.** A law enforcement officer is a full-time employee of a governmental unit that is responsible for preventing or investigating crimes involving injury to persons or property (including catching or detaining persons for these crimes). The law must allow the employee to take all of the following actions.

- 1) Carry firearms.
- 2) Execute search warrants.
- 3) Make arrests (other than citizen's arrests).

The employee must regularly carry firearms except when working undercover. A law enforcement officer includes an arson investigator if the investigator meets these requirements.

**Trucks and vans.** A pickup truck or van is not a qualified nonpersonal-use vehicle unless specially modified so it is not likely to be used more than minimally for personal purposes. The following are guidelines that a pickup truck or van can meet to be a qualified nonpersonal-use vehicle. Even if these guidelines are not met, the vehicle may still qualify, based upon the facts. In that case, contact the IRS for further guidance.

**Pickup truck.** A pickup truck with a loaded gross vehicle weight not over 14,000 pounds qualifies if clearly marked with permanently affixed decals, special painting, or other advertising associated with your trade, business, or function. It must meet either of the following requirements.

- 1) Be equipped with at least one of the following items.
  - a) Hydraulic lift gate.
  - b) Permanent tanks or drums.
  - c) Permanent side boards or panels that materially raise the level of the sides of the truck bed.
  - d) Other heavy equipment (such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles).
- 2) Be used primarily to transport a particular type of load (other than over the public highways) in a construction, manufacturing, processing, farming, mining, drilling, timbering, or other similar operation for which it was specially designed or significantly modified.

**Van.** A van with a loaded gross vehicle weight not over 14,000 pounds qualifies if clearly marked with permanently affixed decals, special painting, or other advertising associated with your trade, business, or function. It must have a seat for the driver only, or the driver and one other person, and either of the following items.